



EMERGENCY PROCUREMENT IN RESPONSE TO COVID-19 PANDEMIC

TO: ACCOUNTING OFFICERS OF MUNICIPALITIES AND MUNICIPAL ENTITIES

1. Purpose

1.1 The purpose of this circular is to-

- 1.1.1 facilitate emergency procurement to deal with the COVID-19 pandemic which was declared a national state of disaster (the Disaster) on 15 March 2020; and
- 1.1.2 to avoid the abuse of the supply chain management (SCM) system to deal with the Disaster.

2. Background

- 2.1 On 15 March 2020, President Cyril Ramaphosa announced the declaration of a national state of disaster following the World Health Organisation declaring the COVID-19 outbreak as a pandemic as well as measures that must be implemented by the nation.
- 2.2 The Department of Public Service and Administration issued Circular 07 of 2020 that gives guidelines for the containment and management of the Corona Virus in the Public Service. Paragraph 2.6.19 of the said Circular reads as follows:

"2.6.19 It is incumbent on departments to procure sufficient hand sanitizers, soap, gloves, masks, tissues and when possible temperate scanners for use to monitor employee's possible exposure in terms of the COVID-19 symptoms. The procurement of such equipment must be defrayed from departments existing budget allocations. Such screening must be done by personnel with the requisite expertise."

- 2.3 On 18 March 2020, regulations under the Disaster Management Act, 2002, were published in the Gazette regarding steps to prevent an escalation of the disaster or to alleviate, contain and minimise the effects of the Disaster. These regulations provide that institutions must comply with the Municipal Finance Management Act and the applicable emergency provisions in the regulations issued under that Act.

- 2.4 Municipalities and municipal entities are required to institute additional measures to give effect to the programme of preventing the spread of the COVID-19 virus and these measures require that a procurement process is followed.
- 2.5 The nature of the goods required are not goods ordinarily procured; and the high demand for these items, by both the private and public sector, may lead to uncompetitive and inflated prices.
- 2.6 To assist in overcoming the challenges that this pandemic will have on the SCM operations, the National Treasury has put in place measures to assist municipalities and municipal entities to procure the basic preventative items to contain and manage the transmission of the COVID-19 virus.
- 2.7 This will ensure that goods procured, comply with the specification as determined by the National Department of Health and at negotiated prices as agreed with suppliers.
- 2.8 National Treasury have engaged with Transversal Contract suppliers of these items and to ensure continuity of supplies and to keep prices in check. See **Annexure A: Table 1 for details.**
- 2.9 For items that are not on Transversal Contracts, the Office of the Chief Procurement Officer (OCPO) has sought quotations on behalf of all State Institutions from suppliers. See **Annexure A: Table 2 for details.**
- 2.10 Annexure A contains the list of items, suppliers and prices. This Annexure may be updated from time to time during this period and it is advisable to frequently check for updates on the National Treasury website.

3. COVID-19 emergency procurement procedures

- 3.1 The central facilitation of procurement negotiations for these items are crucial as it will assist in the following:
 - 3.1.1 Pre-negotiated prices based on economies of scale;
 - 3.1.2 Security of supply; and
 - 3.1.3 Prevent unscrupulous behavior and panic buying;
- 3.2 This Circular applies to items and suppliers listed on **Annexure A.**

3.3 Use of transversal contracts:

- 3.3.1 Items on Annexure A, Table 1 are items on Transversal Contracts.
- 3.3.2 Municipalities and municipal entities that are already participants on these contracts may continue placing orders as usual.
- 3.3.3 Where a municipality or municipal entity is not a participant in the above-mentioned transversal contracts, the accounting officer may procure the listed items on **Annexure A:Table 1** from these contracts without obtaining participation approval from the National Treasury Transversal Contracting Unit.

3.4 Items not on transversal contracts:

- i) Items on **Annexure A: Table 2** are items not covered in the Transversal Contracts.
- ii) National Treasury has made alternative arrangements with the suppliers providing the items listed on Table 2.
- iii) Accounting officers may place orders with the suppliers listed on Table 2 for the specific required items.

3.5 Items not on Annexure A (Table 1 and 2)

- 3.5.1 If an item is not listed on Annexure A, and is deemed to be a specific requirement for the municipality or municipal entity, the emergency procurement prescripts may be followed:
 - i) Accounting officers of municipalities and municipal entities may deviate from inviting competitive bids in cases of emergency in terms of regulation 36 of the Municipal Supply Chain Management Regulations read with the Municipal Supply Chain Management policies. This does not require National Treasury's approval.
 - ii) MFMA Circular 62 allows accounting officers to expand contracts for goods up to 15%. For expansions in excess of the 15%, in order to expedite matters, council may delegate an appropriate structure, provided the decision is ratified by council at its next sitting.

3.6 Reporting requirement

- 3.6.1 All items procured in terms of paragraph 3.5 as emergency procurement related to COVID-19, must be reported to the relevant treasury within 30 days. The report to the relevant treasury must contain the following information, as provided for in Annexure A and B:

- i) Description of item
- ii) Supplier name
- iii) Unit price
- iv) Quantity
- v) Total price
- vi) Saving achieved when compared to the price listed
- vii) Motivation for deviating from the items listed

3.7 General compliance measures

- 3.7.1 Where more than one supplier is listed per item, institutions may procure from any suppliers that have available stocks.
- 3.7.2 Where a municipality or municipal entity or a Provincial Treasury already have a contract(s) in place for the same items listed in Annexure A, they must honour the contract and continue to procure from that contract.
- 3.7.3 Where these items are included in existing Facilities Management Contracts, municipalities and municipal entities may negotiate with the Facilities Management Service Provider to provide these items. Contracts may be expanded or varied (refer paragraph 3.5.1 (ii)), but only for items that will aid the prevention of the spread of the virus. Municipalities and municipal entities must not pay prices in excess of the prices provided for in **Annexure A**.
- 3.7.4 Should municipalities and municipal entities experience any challenge with ordering the required items listed in Annexure A, they must immediately communicate the challenge to National Treasury Transversal Contracting Unit to intervene.
- 3.7.5 National Treasury will issue a communication once the risk of depletion of supplies is established.
- 3.7.6 Municipalities and municipal entities may approach any other supplier to obtain quotes and may procure from such suppliers on condition that:
 - i) The items are to the specifications as determined by the National Department of Health;
 - ii) The prices are equal or lower than the prices in **Annexure A**; and
 - iii) The supplier is registered in the Central Supplier Database
- 3.7.7 Where municipalities and municipal entities already procured items, prior to the issuance of this circular, under the emergency procurement procedure as stipulated in regulation 36 of the Municipal Supply Chain Management Regulations, such procurement must be reported within 10 days to the relevant treasury.

4. Impact on procurement process

4.1 Tender briefing sessions

- 4.1.1 Public Procurement is essential in preventing the spread of the virus and some processes within the procurement process are prone to interaction with various stakeholders, such as tender briefing sessions and public opening of tenders.
- 4.1.2 To ensure that service delivery is not negatively impacted and to complement the measures announced by the President, National Treasury advises that municipalities and municipal entities must, as far as possible, avoid convening briefing sessions.
- 4.1.3 Briefing sessions should not be made compulsory or mandatory, unless otherwise approved by the accounting officer.
- 4.1.4 Bidders may be requested to send electronic mails for any enquiries related to the bid. The municipality and municipal entity must specify the period within which the e-mail enquiries must be sent. The municipality and municipal entity must respond to all enquiries related to the bid at least a week before the closing date of the bid. A schedule of the questions and answers must be uploaded on the municipality and municipal entity's website and or any other measure to ensure that all bidders receive the information.
- 4.1.5 Municipalities and municipal entities may extend the response period for bids beyond the required 21 days to accommodate the enquiry process, but not more than 40 days.
- 4.1.6 Where briefing sessions cannot be avoided, the session must be arranged in such a way that the number of attendees do not exceed 100 people per session, taking into consideration the venue capacity and the guidelines issued around maintaining a safe distance between persons. This can be achieved by hosting more than one briefing session and implementing an RSVP process so that municipalities and municipal entities can control the number of persons attending each session.
- 4.1.7 Municipalities and municipal entities may also consider other means of conducting the briefing sessions using technology such as podcasting, teleconferencing, Microsoft Teams, Zoom and similar enablers.
- 4.1.8 In the case of bids that have already been advertised with a determined briefing date, the bid closing date and briefing session date may be extended to accommodate the logistical arrangements to affect the necessary health

requirements as published. The revised dates must be republished on the e-Tender publication portal and the municipality and municipal entity's website where possible.

- 4.1.9 Municipalities and municipal entities must ensure that, in respect of all procurement activities, all precautionary measures issued by the Department of Health and other relevant authorities are strictly observed to prevent the spread of the COVID-19 virus.

4.2 Public opening of tenders

- 4.2.1 Where there is a public bid opening, the municipality and municipal entity must comply with the regulations made under the Disaster Management Act, 2002, published in the Gazette on 18 March 2020.

5. **Applicability**

- 5.1 This circular applies to all municipalities and municipal entities in terms of the MFMA.

6. **Dissemination of Information contained in this Circular**

- 6.1 Accounting officers are requested to bring the contents of this circular to the attention of municipal officials and municipal entities, responsible for such items, the supply chain management officials and their support personnel.

7. **Notification to the Auditor-General**

- 7.1 A copy of this circular will be submitted to the Auditor-General for notification.

8. **Authority for this Circular and effective date**

- 8.1 This circular is issued in terms of the section 168 of the Municipal Finance Management Act, 2003 and takes effect from the date of issue.
- 8.2 This circular will be in effect until the national state of disaster, declared on 15 March 2020, lapses or terminates or until this circular is withdrawn.

9. Contact information

Any enquiries in respect of this Circular must be submitted to:

Mr Molefe Fani
Chief Director: Transversal Contracting
Tel: (012) 395 6741
EMAIL: Molefe.Fani@treasury.gov.za

Or

Ms Manthepeng Tshinavha
Director: Transversal Contracting
Tel: (012) 395 6528
EMAIL: Manthepeng.Tshinavha@treasury.gov.za

Or

Estelle Setan
Acting Chief Procurement Officer
EMAIL: cpo@treasury.gov.za



Dondo Mogajane
Director-General : National Treasury
Date: 19 March 2020

Annexures Attached:

- Annexure A: Table 1 – Items on Transversal Contracts
- Annexure A: Table 2 – Items not on Transversal Contracts
- Annexure B: Contact details for Suppliers